



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH
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July 14, 2004

TO: Washington State Board of Health Members

FROM: Carl Osaki, Tom Locke, and Ed Gray, WSBOH Members

RE: **FINAL UPDATE ON FOOD SERVICE RULE REVISION PROCESS—
CHAPTER 246-215 WAC**

Summary

In November 2001, the Board began the food service rule revision process. The stated goal was to develop regulations that are more consistent statewide, using the 2001 U.S. Food and Drug Administration (FDA) Food Code as a guide. The 2001 FDA Food Code contains model guidelines for regulating food service establishments, along with extensive references, public health reasons for the guidelines, and additional information.

Board members asked for periodic updates on the food service rule revision process. At today's meeting, Jennifer Tebaldi from the DOH Food Safety Program will provide a final update on the rule revision process and review issues that have received the most public input and discussion during the process. Within that process, consensus recommendations have been reached on some issues, such as recommendations to regulate certain vendors at farmers markets and to lower the food cold holding temperature. Other issues were not resolved by core workgroup consensus, such as whether or not potlucks advertised to the public should be regulated and when the rule should go into effect. DOH has developed recommendations for these unresolved issues. Board members should expect to hear public testimony on these and other issues. (Please see DOH materials in Tab 8.)

Input has been received from members of a "Core Workgroup," participants on subcommittees formed to discuss specific issues, through e-mails and letters, and at public workshops held throughout the state. DOH Food Safety Program staff members have used this input on the 2001 FDA Food Code and additional draft language, along with direction from Board rule sponsor Carl Osaki, to develop draft food service rules.

The process has adhered to the proposed timeline. Plans call for the Board to hold the public hearing on the proposed draft rule in September 2004, with the goal of adopting an updated version of the Washington food service rules by December 31, 2004.

Board action recommended

No action recommended at this time.

Background

The purpose of chapter 246-215 WAC is to establish State Board of Health standards for food service under RCW 43.20.050 to promote and protect the health, safety, and well being of the public and prevent the spread of disease by food (WAC 246-215-001). The food service rules adopted by the Board cover a wide range of activities including food preparation, protection from contamination, temperature control, cooking requirements, sanitary design of equipment, cleaning, worker hygiene, and pest control.

Local health jurisdiction staffs enforce Food Service regulations, and local boards of health may adopt more stringent regulations (WAC 246-215-280). The Board last revised its food service rules in 1992.

In November 2001, the Board filed a CR-101 to begin the rule revision process for the food service regulations. The stated goal was to develop regulations that are more consistent statewide, using the 2001 U.S. Food and Drug Administration (FDA) Food Code as a guide. The 2001 FDA Food Code contains model guidelines for regulating food service establishments, along with extensive references, public health reasons for the guidelines, and additional information. Forty-one states have adopted some version of the federal model code, and eight more states (including Washington) are actively considering adopting most of its provisions.

Engrossed Substitute House Bill 2325 went into law in 2002. The purpose of the law is to encourage food donation to charitable organizations while assuring safe food handling practices. The law directs the Board to promulgate rules for the safe receipt, preparation and handling of donated food by distributing organizations by December 31, 2004. The law directs DOH to establish recommended donor guidelines to educate the public about preparation and handling of food donated to charitable organizations for distribution to homeless and other needy people. It also directs DOH, in consultation with the Board, to develop educational materials containing these guidelines by December 31, 2004. The law also states that on request from a food donor or distributing organization, local health officers may grant variances to Chapter 246-215 when there is no known or expected health hazard. (Please see ESHB 2325 behind Tab 8.)

House Bill 1318, proposed by DOH and supported by the Board, went into law in summer 2003. It added section 145 to chapter 43.20 RCW: "The state board shall consider the most recent version of the United States Food and Drug Administration's Food Code for the purpose of adopting rules for food service." Because of this change, the rule adoption process will be streamlined—economic impact analyses are not needed for changes made to food service rules that are taken from the most recent version of the FDA Food Code, the 2001 version.

Because of concerns about the timeframe for revising chapter 246-215 WAC and the variability of food regulations in a few local health jurisdictions, the 2002 Legislature passed Engrossed Substitute Senate Bill 6588. ESSB 6558 would have given the Board sole rule-making authority to adopt food service rules for food service establishments, preempting local health jurisdictions' current ability to set stricter food regulations. Although Governor Locke vetoed ESSB 6588, the bill's December 2004 rule adoption date was incorporated into the food service rule revision timeframe. The Board may hear testimony from industry stakeholders who would prefer inclusion of local health jurisdiction preemption language in chapter 246-215 WAC. A bill that addresses this concern may be proposed in the future.